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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,823	09/22/2006	Colin Brown	102790-210 (30088 US)	4910
27380 7590 06/16/2008 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER CONLEY, SEAN EVERETT				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
06/16/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/572,823

**Applicant(s)**

BROWN ET AL.

**Examiner**

SEAN E. CONLEY

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2009 and 01 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 4/1/08
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**FINAL ACTION**

***Response to Amendment***

1. The amendment filed March 4, 2008 has been received and considered for examination. Claims 1-4 and 6-7 are pending.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Dimacopoulos (U.S. Patent No. 4,173,604).

Regarding claims 1 and 7, Dimacopoulos discloses a method of disseminating into an atmosphere a volatile liquid using a device. The device (10) adapted to disseminate vaporous material into an atmosphere, comprises the following elements: (a) an electrically-driven fan (20) arranged perpendicular (see figure 2), fitted with a housing (12) that is constructed so that the fan blows a current of air horizontally through an exit port (16) into the atmosphere (see figures 1-2; see col. 4, lines 35-60); (b) a reservoir (28) of volatile liquid (48) for evaporation into the atmosphere, the reservoir (28) having an upper orifice substantially completely blocked by an essentially planar, essentially horizontal evaporation surface (surface of absorbent member 38), reservoir (28) and housing (12) cooperating such that the current of air blows across the

Art Unit: 1797

evaporation surface (surface of absorbent member 38) as it moves towards the exit port (16 (see figures 4-5; see col. 5, lines 10- 55); and (c) means (liquid transport means (50)) for transferring liquid from the reservoir (28) to the evaporation surface (see figures 4-5; see col. 5, line 10 to col. 6, line 65).

Regarding claim 2, Dimacopoulos discloses an evaporation surface (surface of member 38 completely saturated with the vapor generating liquid 48) that is located beneath the flow of forced ventilation which is generated by fan (20) (see col. 6, lines 49-68; see figures 2, 4 and 5).

Regarding claim 3, Dimacopoulos discloses an evaporation surface (capillary action membrane 38) which is formed from a non-woven fabric. Since the evaporation surface is made of a non-woven fabric, it inherently contains a series of very small wavelike surface contours which are also known as undulations (see col. 5, lines 43-45),

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dimacopoulos as applied to claim 1 above, and further in view of Purzycki (U.S. Patent No. 4,913,350)

Dimacopoulos discloses the claimed invention but is silent with regards to at least one flat vane raised on the planar surface essentially perpendicular to the surface.

Purzycki discloses an improved external capillary member for releasing a fragrance (see figures 1-4; see col. 2, lines 34-58; see columns 3-4). The surface of the capillary member has been provided with capillary cavities as illustrated in figures 1-4. The resulting fins or vanes formed on the capillary member results in a fragrance being released uniformly and linearly in to the air, without distortion of the odor character and without change in the rate of delivery (see col. 2, lines 34-58 and col. 1, lines 16-34).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Dimacopoulos and incorporate the capillary design of the fins exemplified in figure 3a of Purzycki onto the surface of the capillary action membrane (38) in order to release the fragrance uniformly and linearly in to the air, without distortion of the odor character and without change in the rate of delivery. The resulting capillary action membrane (38) would have a vane that extends across the surface in the direction of at least a portion of the air flow (due to the shape of the housing 12) and is capable of being adapted to be rotated (the membrane (38) has a circular circumference) such that at least one vane would be positioned parallel to a portion of the airflow, thus being able to block the flow.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-4 and 6-7 have been considered but are moot in view of the new ground(s) of rejection.

With regards to Dimacopoulos, the applicant argues that the fan is arranged parallel to the surface of the vapor generator, whereas in the applicants claimed invention, the fan is arranged perpendicular to the surface. This argument is not persuasive because it is not commensurate in scope with the claims. Claim 1 only requires a fan arranged perpendicular in the housing, not perpendicular to the surface as argued by the applicant. The fan (20) of Dimacopoulos is arranged perpendicular to the wall of the housing (12) and furthermore, due to the shape of the housing, at least a portion of the air is blown horizontally through the exit port (see above rejection of claim 1). As such, the device of Dimacopoulos anticipates the device of claims 1 and 2.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1797

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/William H. Beisner/  
Primary Examiner, Art Unit 1797

June 9, 2008

SEC